

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

ARLENA CHANEY, et al.,
Plaintiffs

v.

CAPITOL PARK ASSOCIATES, LP, et al.,
Defendants

)
)
)
)
)
)
)

Case No. 12 CA 5582

Calendar 13 - Judge Kravitz

ORDER AND FINAL JUDGMENT

On the 28th day of July, 2014, a hearing having been held before this Court to determine:

(1) whether the terms and conditions of the Revised Settlement Agreement dated May 9, 2014 (the “Settlement”) are fair, reasonable and adequate for the settlement of all claims asserted by the Class against the Defendants in the Third Amended Complaint now pending in this Court under the above caption, including the release of the Defendants and the Released Parties, and should be approved; (2) whether judgment should be entered dismissing the Third Amended Complaint on the merits and with prejudice; (3) whether to approve the plan of allocation of the Settlement Fund as fair and reasonable; (4) whether and in what amount to award Class Counsel fees and reimbursement of expenses; and (5) whether and in what amount to award incentive awards to the Class Representatives. The Court having considered all matters submitted to it at the hearing and otherwise; and it appearing that a notice of the hearing substantially in the form approved by the Court was mailed to all Class Members who could be located with reasonable effort; and the Court having considered and determined the fairness and reasonableness of the award of attorneys’ fees, expenses, and incentive awards requested; and all capitalized terms used herein having the meanings as set forth and defined in the Settlement.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Court has jurisdiction over the subject matter of the Action, the Class Representatives, all Class Members, and the Defendants.

2. The Court finds that the prerequisites for a class action under Superior Court Civil Rules 23 (a) and (b)(3) have been satisfied in that: (a) the Class is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of the Class Representatives are typical of the Class Members they seek to represent; (d) the Class Representatives have and will fairly and adequately represent the interests of the Class; (e) the questions of law and fact common to the Class Members predominate over any questions affecting only individual members of the Class; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

3. Pursuant to Rule 23(c)(1) of the Superior Court Rules this Court hereby re-certifies a modified class on behalf of all current and former residents of the Capitol Park Towers Apartments, 301 G Street SW, Washington, DC 20024 who, at any time during the period of July 10, 2009 through November 15, 2013, paid to any Defendant a monthly fee for parking at the Towers. Excluded from the Settlement Class are Defendants, any parent, subsidiary, affiliate or sister company of Defendants, and all employees, officers or directors of Defendants, or any parent, subsidiary, affiliate or sister company at any time during the Class Period, and the legal representatives, heirs, successors, and assigns of any of the foregoing. Also excluded from the Settlement Class is any person who has previously executed a release in favor of one or more of the Defendants which release is broad enough to include the claims asserted in the Action or any person who timely submitted a request for exclusion from the Settlement, each of whom are identified in Attachment A to this Order.

4. Notice of the pendency of this case as a class action and of the proposed Settlement was given to all Class Members who could be identified with reasonable effort. The form and method of notifying the Class of the pendency of the action as a class action and of the terms and conditions of the proposed Settlement met the requirements of Rule 23 of the Superior Court Civil Rules, due process, and any other applicable law, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

5. The Settlement is approved as fair, reasonable and adequate, and the Class Members and the parties are directed to consummate the Settlement in accordance with the terms and provisions of the Settlement.

6. The Third Amended Complaint is hereby dismissed with prejudice and without costs, except as provided in the Settlement.

7. The Releasing Parties, who are defined in the Settlement Agreement as Plaintiff Yohannes, the members of Settlement Class who did not opt out of the Settlement and each of their respective spouses, executors, representatives, heirs, predecessors, successors, bankruptcy trustees, guardians, wards, joint tenants, tenants in common, tenants by the entirety, co-borrowers, agents, attorneys, and assigns of any of them, and all those who claim through them or who assert claims on their behalf are hereby permanently barred and enjoined from instituting, commencing or prosecuting any and all claims, debts, demands, rights or causes of action or liabilities whatsoever (including, but not limited to, any claims for damages, interest, attorneys' fees, expert or consulting fees, and any other costs, expenses or liability whatsoever), whether based on federal, state, local, statutory or common law or any other law, rule or regulation, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, whether class or individual in nature, including both known claims and unknown

claims that Releasing Parties ever had, now have, or may have in the future, that result from, arise out of, are based upon, or relate in any way to the occurrences, conduct, omissions, duties, matters, or allegations in the Action or which could have been raised in the Action by any of them against any of the Released Parties who are defined in the Settlement Agreement as the Defendants, their parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and all of the directors, officers, members, partners, shareholders, employees, agents, and attorneys of those entities. The Released Claims are hereby compromised, settled, released, discharged and dismissed as against the Released Parties on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

8. The Released Parties are hereby permanently barred and enjoined from instituting, commencing or prosecuting any and all rights, claims, liabilities, action, causes of action, costs and attorneys' fees, demands, damages and remedies, known or unknown, liquidated or unliquidated, legal, statutory, declaratory or equitable whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including both known claims and unknown claims, that the Released Parties ever had, now have, or may have in the future which result from, arise out of, are based upon, or related in any way to the facts, occurrences, conduct, omissions, duties, matters, or allegations in the Action, against Class Counsel and the Releasing Parties (the "Released Parties' Claims"). Such Released Parties' Claims specifically exclude any claims any of the Released Parties may have against any Class Member by virtue of any apartment lease for an apartment at Capitol Park Towers, and any claims or defenses against any person, including Class Representatives, who timely elected to be excluded from the Settlement. The Released Parties' Claims are hereby compromised, settled, released, discharged and dismissed on

the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

9. Neither this Order and Final Judgment, the Settlement, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein shall be:

a) offered or received against the Released Parties as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any of the Released Parties with respect to the truth of any fact alleged by any of the Class Representatives or the validity of any claim that has been or could have been asserted in this or any litigation, or the deficiency of any defense that has been or could have been asserted in this or in any litigation, or of any liability, negligence, fault, or wrongdoing of the Released Parties;

b) offered or received against the Released Parties as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by any Released Party;

c) offered or received against the Released Parties as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the Released Parties, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Settlement;

d) construed against the Released Parties as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; or

e) construed as or received as evidence of an admission, concession or presumption against the Class Representatives or any of the Class Members that any of their claims are without merit, or that any defenses asserted by the Defendants have any merit, or that damages recoverable under the Third Amended Complaint would not have exceeded the Settlement Fund.

10. The plan of allocation of the Settlement Fund, as amended at the Final Fairness Hearing, is approved as fair and reasonable, and Class Counsel and the Claims Administrator are directed to administer the Settlement in accordance with its terms and provisions. For purposes of allocation, co-habiting residents of the Towers paying a single monthly fee for parking during the Class Period shall be treated as a single Settlement Class Member, with their collective share of the settlement divided equally, and settlement distributions attributable to Settlement Class Members who cannot be located through reasonable efforts will remain in the Settlement Fund until the date for *cy pres* distribution pursuant to ¶¶ 25 - 27 of the Settlement.

11. The Court finds that all parties and their counsel have complied with each requirement of Rule 11 of the Superior Court Rules as to all proceedings herein.

12. Class Counsel are hereby awarded 33% percent of the Settlement Fund in fees, which sum the Court finds to be fair and reasonable, and \$14,595.14 in reimbursement of expenses, which amounts shall be paid to Class Counsel from the Settlement Fund. The award of attorneys' fees shall be allocated among Class Counsel in a fashion which, in the mutual agreement of Class Counsel, fairly compensates Class Counsel for their respective contributions in the prosecution of this litigation.

13. Each Class Representative is awarded an incentive award of \$2,500.

14. In making this award of attorneys' fees and reimbursement of expenses, and the award of incentive awards to be paid from the Settlement Fund, the Court has considered and found that:

a) The Settlement has created a fund of \$500,000 in cash, \$20,000 of which is already on deposit, and the remainder of which will be deposited within 5 business days of the Effective Date as provided in the Settlement. The Class Members who have not requested exclusion from the Settlement will benefit from the Settlement created by Class Counsel;

b) Copies of the Notice were disseminated to Class Members indicating that Class Counsel were moving for attorneys' fees in the amount of up to 33% of the Settlement Fund and for reimbursement of expenses, and that the Class Representatives were moving for incentive awards, and one (1) objection was filed against the terms of the proposed Settlement, the award of attorneys' fees and expenses, or the incentive awards, and that objection has been withdrawn on the record at the Final Fairness Hearing.

c) Class Counsel have conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy;

d) The action involves complex factual and legal issues and, in the absence of a settlement, would involve further lengthy proceedings with uncertain resolution of the complex factual and legal issues;

e) Had Class Counsel not achieved the Settlement there would remain a significant risk that the Class might have recovered less or nothing from the Defendants;

f) Class Counsel have devoted over 1670 hours, with a lodestar value of \$683,145.51, to achieve the Settlement;

g) The amount of attorneys' fees awarded and expenses reimbursed from the Settlement Fund are consistent with, or less than, awards in similar cases; and

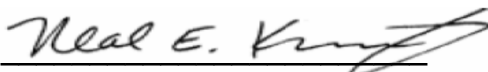
h) Each Class Representative devoted substantial time and effort to the prosecution of this Action, including some or all of the following: meeting with Class Counsel to discuss case strategy and prepare to meet their obligations as Class Representatives, corresponding with Class Counsel in writing and by telephone to keep abreast of and provide input regarding the prosecution of the Action, reviewing documents and filings, answering interrogatories, compiling and producing document discovery, sitting for depositions, and participating in settlement negotiations.

15. Exclusive jurisdiction is hereby retained over the parties and the Class Members for all matters relating to this litigation, including the administration, interpretation, effectuation or enforcement of the Settlement and this Order and Final Judgment, and including any application for fees and expenses incurred in connection with administering and distributing the settlement proceeds to the members of the Class and enforcement of the injunction against prosecuting Released Claims against any Released Parties.

16. Without further order of the Court, the parties may agree to reasonable extensions of time to carry out any of the provisions of the Settlement.

17. There is no just reason for delay in the entry of this Order and Final Judgment and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Superior Court Civil Rules.

July 28, 2014
Date


Neal E. Kravitz, Associate Judge
(Signed in Chambers)

Copies to:

Debra F. Leege, Esq.
William C. Casano, Esq.
Robert O. Wilson, Esq.
Tracy D. Rezvani, Esq.
Via CaseFileXpress